
SENATE BILL 5345

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By Senators Holmquist, Honeyford, Parlette, King, Becker, McCaslin, Hewitt, Morton, Stevens, and Schoesler

Read first time 01/20/09. Referred to Committee on Environment, Water & Energy.

1 AN ACT Relating to renewable energy; and amending RCW 19.285.030
2 and 19.285.040.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 19.285.030 and 2007 c 1 s 3 are each amended to read
5 as follows:

6 The definitions in this section apply throughout this chapter
7 unless the context clearly requires otherwise.

8 (1) "Attorney general" means the Washington state office of the
9 attorney general.

10 (2) "Auditor" means: (a) The Washington state auditor's office or
11 its designee for qualifying utilities under its jurisdiction that are
12 not investor-owned utilities; or (b) an independent auditor selected by
13 a qualifying utility that is not under the jurisdiction of the state
14 auditor and is not an investor-owned utility.

15 (3) "Biomass energy" means (a) organic byproducts of the pulping
16 process; (b) animal waste; (c) solid organic fuels from wood; (d)
17 forest or field residues; (e) wooden demolition or construction debris;
18 (f) food waste that is decomposed in an anaerobic digester; (g) black
19 liquors derived from algae; or (h) dedicated energy crops. "Biomass"

1 does not include wood pieces that have been treated with chemical
2 preservatives such as creosote, pentachlorophenol, or copper-chrome-
3 arsenic; wood from old growth forests; or municipal solid waste.

4 (4) "Commission" means the Washington state utilities and
5 transportation commission.

6 ~~((+4))~~ (5) "Conservation" means any reduction in electric power
7 consumption resulting from increases in the efficiency of energy use,
8 production, or distribution.

9 ~~((+5))~~ (6) "Cost-effective" has the same meaning as defined in RCW
10 80.52.030.

11 ~~((+6))~~ (7) "Council" means the Washington state apprenticeship and
12 training council within the department of labor and industries.

13 ~~((+7))~~ (8) "Customer" means a person or entity that purchases
14 electricity for ultimate consumption and not for resale.

15 ~~((+8))~~ (9) "Department" means the department of community, trade,
16 and economic development or its successor.

17 ~~((+9))~~ (10) "Distributed generation" means an eligible renewable
18 resource where the generation facility or any integrated cluster of
19 such facilities has a generating capacity of not more than five
20 megawatts.

21 ~~((+10))~~ (11) "Eligible renewable resource" means:

22 (a) Electricity from a generation facility powered by a renewable
23 resource other than fresh water that commences operation after March
24 31, 1999, ~~((where:—(i)))~~ when the facility is located ~~((in the Pacific~~
25 ~~Northwest; or (ii) the electricity from the facility is delivered into~~
26 ~~Washington state on a real time basis without shaping, storage, or~~
27 ~~integration services; or))~~ within the geographic jurisdiction of the
28 western electricity coordinating council or its successor;

29 (b) Incremental electricity produced as a result of efficiency
30 improvements completed after March 31, 1999, to hydroelectric
31 generation projects ~~((owned by a qualifying utility))~~ and located in
32 the Pacific Northwest or to hydroelectric generation in irrigation
33 pipes and canals located in the Pacific Northwest, where the additional
34 generation in either case does not result in new water diversions or
35 impoundments;

36 (c) Electricity from a generation facility located in the Pacific
37 Northwest that commenced operation before March 31, 1999, and is
38 powered by biomass energy;

1 (d) Electricity from a generation facility located in the Pacific
2 Northwest that commenced operation before March 31, 1999, and is
3 powered by water from a generation facility with a generation capacity
4 of thirty megawatts or less; or

5 (e) Up to fifty megawatts of electricity from a generation facility
6 located in the Pacific Northwest that is powered by water and that has
7 been relicensed after 1985 by the federal energy regulatory commission
8 under the federal power act. A qualifying utility may not claim
9 eligible renewable resources under both (d) and (e) of this subsection.

10 ~~((+11+))~~ (12) "Investor-owned utility" has the same meaning as
11 defined in RCW 19.29A.010.

12 ~~((+12+))~~ (13) "Load" means the amount of kilowatt-hours of
13 electricity delivered in the most recently completed year by a
14 qualifying utility to its Washington retail customers.

15 ~~((+13+))~~ (14) "Nonpower attributes" means all environmentally
16 related characteristics, exclusive of energy, capacity reliability, and
17 other electrical power service attributes, that are associated with the
18 generation of electricity from a renewable resource, including but not
19 limited to the facility's fuel type, geographic location, vintage,
20 qualification as an eligible renewable resource, and avoided emissions
21 of pollutants to the air, soil, or water, and avoided emissions of
22 carbon dioxide and other greenhouse gases.

23 ~~((+14+))~~ (15) "Pacific Northwest" has the same meaning as defined
24 for the Bonneville power administration in section 3 of the Pacific
25 Northwest electric power planning and conservation act (94 Stat. 2698;
26 16 U.S.C. Sec. 839a).

27 ~~((+15+))~~ (16) "Public facility" has the same meaning as defined in
28 RCW 39.35C.010.

29 ~~((+16+))~~ (17) "Qualifying utility" means an electric utility, as
30 the term "electric utility" is defined in RCW 19.29A.010, that serves
31 more than twenty-five thousand customers in the state of Washington.
32 The number of customers served may be based on data reported by a
33 utility in form 861, "annual electric utility report," filed with the
34 energy information administration, United States department of energy.

35 ~~((+17+))~~ (18) "Renewable energy credit" means a tradable
36 certificate of proof of at least one megawatt-hour of an eligible
37 renewable resource, regardless of its geographic location, where ~~((the~~
38 ~~generation facility is not powered by fresh water,))~~ the certificate

1 includes all of the nonpower attributes associated with that one
2 megawatt-hour of electricity, and the certificate is verified by a
3 renewable energy credit tracking system selected by the department.

4 ~~((+18))~~ (19) "Renewable resource" means: (a) Water; (b) wind; (c)
5 solar energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean,
6 or tidal power; (g) gas from sewage treatment facilities; (h) biodiesel
7 fuel as defined in RCW 82.29A.135 that is not derived from crops raised
8 on land cleared from old growth or first-growth forests where the
9 clearing occurred after December 7, 2006; and (i) biomass energy
10 ~~((based on animal waste or solid organic fuels from wood, forest, or
11 field residues, or dedicated energy crops that do not include (i) wood
12 pieces that have been treated with chemical preservatives such as
13 creosote, pentachlorophenol, or copper chrome arsenic; (ii) black
14 liquor byproduct from paper production; (iii) wood from old growth
15 forests; or (iv) municipal solid waste))~~.

16 ~~((+19))~~ (20) "Rule" means rules adopted by an agency or other
17 entity of Washington state government to carry out the intent and
18 purposes of this chapter.

19 ~~((+20))~~ (21) "Year" means the twelve-month period commencing
20 January 1st and ending December 31st.

21 **Sec. 2.** RCW 19.285.040 and 2007 c 1 s 4 are each amended to read
22 as follows:

23 (1) Each qualifying utility shall pursue all available conservation
24 that is cost-effective, reliable, and feasible.

25 (a) By January 1, 2010, using methodologies consistent with those
26 used by the Pacific Northwest electric power and conservation planning
27 council in its most recently published regional power plan, each
28 qualifying utility shall identify its achievable cost-effective
29 conservation potential through 2019. At least every two years
30 thereafter, the qualifying utility shall review and update this
31 assessment for the subsequent ten-year period.

32 (b) Beginning January 2010, each qualifying utility shall establish
33 and make publicly available a biennial acquisition target for cost-
34 effective conservation consistent with its identification of achievable
35 opportunities in (a) of this subsection, and meet that target during
36 the subsequent two-year period. At a minimum, each biennial target

1 must be no lower than the qualifying utility's pro rata share for that
2 two-year period of its cost-effective conservation potential for the
3 subsequent ten-year period.

4 (c) In meeting its conservation targets, a qualifying utility may
5 count high-efficiency cogeneration owned and used by a retail electric
6 customer to meet its own needs. High-efficiency cogeneration is the
7 sequential production of electricity and useful thermal energy from a
8 common fuel source, where, under normal operating conditions, the
9 facility has a useful thermal energy output of no less than thirty-
10 three percent of the total energy output. The reduction in load due to
11 high-efficiency cogeneration shall be: (i) Calculated as the ratio of
12 the fuel chargeable to power heat rate of the cogeneration facility
13 compared to the heat rate on a new and clean basis of a
14 best-commercially available technology combined-cycle natural gas-fired
15 combustion turbine; and (ii) counted towards meeting the biennial
16 conservation target in the same manner as other conservation savings.

17 (d) The commission may determine if a conservation program
18 implemented by an investor-owned utility is cost-effective based on the
19 commission's policies and practice.

20 (e) The commission may rely on its standard practice for review and
21 approval of investor-owned utility conservation targets.

22 (2)(a) Each qualifying utility shall use eligible renewable
23 resources or acquire equivalent renewable energy credits, or a
24 combination of both, to meet the following annual targets:

25 (i) At least three percent of its load by January 1, 2012, and each
26 year thereafter through December 31, 2015;

27 (ii) At least nine percent of its load by January 1, 2016, and each
28 year thereafter through December 31, 2019; and

29 (iii) At least fifteen percent of its load by January 1, 2020, and
30 each year thereafter.

31 (b) A qualifying utility may count distributed generation at double
32 the facility's electrical output if the utility: (i) Owns or has
33 contracted for the distributed generation and the associated renewable
34 energy credits; or (ii) has contracted to purchase the associated
35 renewable energy credits.

36 (c) In meeting the annual targets in (a) of this subsection, a
37 qualifying utility shall calculate its annual load based on the average
38 of the utility's load for the previous two years.

1 (d) A qualifying utility shall be considered in compliance with an
2 annual target in (a) of this subsection if: (i) The utility's weather-
3 adjusted load for the previous three years on average did not increase
4 over that time period; (ii) after December 7, 2006, the utility did not
5 commence or renew ownership or incremental purchases of electricity
6 from resources other than renewable resources other than on a daily
7 spot price basis and the electricity is not offset by equivalent
8 renewable energy credits; and (iii) the utility invested at least one
9 percent of its total annual retail revenue requirement that year on
10 eligible renewable resources, renewable energy credits, or a
11 combination of both.

12 (e) The requirements of this section may be met for any given year
13 with renewable energy credits produced during that year, the preceding
14 year, or the subsequent year, and may be acquired for compliance
15 purposes in the current or subsequent year in which the renewable
16 energy credit is generated. Each renewable energy credit may be used
17 only once to meet the requirements of this section.

18 (f) In complying with the targets established in (a) of this
19 subsection, a qualifying utility may not count:

20 (i) Eligible renewable resources or distributed generation where
21 the associated renewable energy credits are owned by a separate entity;
22 or

23 (ii) Eligible renewable resources or renewable energy credits
24 obtained for and used in an optional pricing program such as the
25 program established in RCW 19.29A.090.

26 (g) Where fossil and combustible renewable resources are cofired in
27 one generating unit located (~~in the Pacific Northwest where~~) within
28 the geographic jurisdiction of the western electricity coordinating
29 council or its successor and the cofiring commenced after March 31,
30 1999, the unit shall be considered to produce eligible renewable
31 resources in direct proportion to the percentage of the total heat
32 value represented by the heat value of the renewable resources.

33 (h)(i) A qualifying utility that acquires an eligible renewable
34 resource or renewable energy credit may count that acquisition at one
35 and two-tenths times its base value:

36 (A) Where the eligible renewable resource comes from a facility
37 that commenced operation after December 31, 2005; and

1 (B) Where the developer of the facility used apprenticeship
2 programs approved by the council during facility construction.

3 (ii) The council shall establish minimum levels of labor hours to
4 be met through apprenticeship programs to qualify for this extra
5 credit.

6 (i) A qualifying utility shall be considered in compliance with an
7 annual target in (a) of this subsection if events beyond the reasonable
8 control of the utility that could not have been reasonably anticipated
9 or ameliorated prevented it from meeting the renewable energy target.
10 Such events include weather-related damage, mechanical failure,
11 strikes, lockouts, and actions of a governmental authority that
12 adversely affect the generation, transmission, or distribution of an
13 eligible renewable resource under contract to a qualifying utility.

14 (3) Utilities that become qualifying utilities after December 31,
15 2006, shall meet the requirements in this section on a time frame
16 comparable in length to that provided for qualifying utilities as of
17 December 7, 2006.

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